

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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COMMONWEALTH EDISON COMPANY ,

CHIEF CLERK'S OFFICE

Regarding a Complaint and Petition By
Commonwealth Edison Company For An Order
Finding PDV Midwest LLC In Violation Of The
Prohibition On Resale Of Retail Electric Service
Contained In the Illinois Public Utilities Act And
Set Forth In Rider 12, Conditions Of Resale Or
Redistribution Of Electricity By The Customer To
Third Persons, And For Other Relief.

No. 02-0277

Direct Testimony of
DAVID F. GERAGHTY

Rate and Contract Administration Manager
Commonwealth Edison Company

Public Version

April 25, 2003

1 Q. Please state your name and business address.

2 A. My name is David F. Geraghty. My business address is Commonwealth Edison
3 Company ("ComEd") Delivery Operations Center, Distribution Pricing, Third Floor,
4 Three Lincoln Centre, Oakbrook Terrace, IL 60181-4260.

5 Q. By whom are you employed and what is your current position?

6 A. I am presently employed as the Rate and Contract Administration Manager in the
7 Distribution Pricing Department of ComEd. As discussed below, I have been employed
8 by ComEd for more than twenty years and have extensive experience concerning
9 ComEd's contracts with large non-residential customers. I also have experience with
10 respect to the customer account involved in this matter. From 1989 through early 1991, I
11 was the ComEd account representative for the account which is the subject of the instant
12 proceeding. I also negotiated the Rate CS Contract Service ("Rate CS") contract
13 provisions with the customer over the period of 1996 and 1997.

14 Q. What is the purpose of your direct testimony?

15 A. The purpose of my direct testimony is to:

- 16 • provide the Illinois Commerce Commission (the "Commission") with account history
17 information concerning ComEd's combined billing of electric service to the large
18 commercial, industrial Facilities housing a refinery, needle coking facilities, and calciner
19 operations located in Lemont, Illinois (collectively, the "Lemont Facilities");
- 20 • provide the Commission with information concerning the negotiation of the special
21 Rate CS contract between ComEd and PDV Midwest Refining, LLC ("PDV Midwest")
22 dated August 5, 1997 (the "Rate CS Contract") wherein ComEd agreed to provide
23 discounted electric service to the Lemont Facilities;

- describe ComEd's discovery of resale activity by PDV Midwest and CITGO Petroleum Corporation ("CITGO") (PDV Midwest's agent), and ComEd's unsuccessful attempts to resolve the issue as a matter of proper rate administration; and
- describe the consequences of continued resale activity by PDV Midwest and CITGO, and the approximately \$6.49 million adverse revenue impact it had on ComEd.

Professional and Educational Background

Q. Please summarize your educational background and professional experience.

A. I am a 1979 graduate of the University of Illinois – Chicago where I received a Bachelor of Science degree in Mechanical Engineering. After graduation, I was hired by ComEd in 1980. From 1980 through 1989, I held a number of technical service and sales positions of increasing responsibility. During that period, I also worked toward a Masters of Business Administration – Finance degree from DePaul University that I received in 1988.

In particular, and as addressed more fully in my testimony, from 1989 to 1991, I was the account representative for ComEd's electric service to the Lemont Facilities. At that time, the ComEd customer of record for the Lemont Facilities was Uno-Ven. My duties as ComEd's account representative included general account management activities such as project managing new business requests, maintenance requirements and billing issues. Providing account management to Uno-Ven also involved the application of ComEd's rules and regulations for service to customers as well as completion of any contract changes necessary to keep the account current.

In 1991 I was promoted to Supervisor, Technical Services at ComEd's Western Division Headquarters. In this position my primary responsibilities involved managing

47 the Technical Service Engineers. Our work included meeting with customers to identify,
48 analyze and implement energy conservation initiatives.

49 In 1993, I took a position as Senior Energy Engineer at ComEd. In that position, I
50 reviewed customer competitive power studies for technical and financial content, and
51 prepared and presented customers with competitive evaluations of bypass options that
52 they had developed. I also assisted customers in identifying energy efficiency options
53 and implemented a cogeneration training program for ComEd's sales staff.

54 In 1994, I was promoted to Contract Manager in the Retail Services department, a
55 position that I held until 1996. As a Contract Manager, I became increasingly involved in
56 negotiated contracts that ComEd was entering into with large customers. My duties in
57 this position included the negotiation of contracts with ComEd's large customers that had
58 identified viable bypass alternatives for securing electric power and energy requirements
59 from sources other than ComEd.

60 In 1996, I became ComEd's Manager of Retail Services. In this position, I
61 managed the activities of ComEd's Retail Services department and continued to be
62 involved in ComEd's negotiation and implementation of contracts with customers that
63 had large electric loads.

64 In 2000, I was promoted to Rate and Contract Administration Manager, and
65 continue to hold this position today. As the Rate and Contract Administration Manager, I
66 supervise and manage the Rate and Contract Administration group in ComEd's
67 Distribution Pricing Department. My duties in this position continue to include the
68 administration of contracts that ComEd entered into with its customers. I am also
69 responsible for providing assistance to several ComEd departments to ensure the

consistent application of ComEd tariffs and policies concerning contracts with customers and other matters.

History of ComEd's Service to the Lemont Facilities

Q. Are you familiar with ComEd's service to the Lemont Facilities?

A. Yes.

Q. How did you become familiar with ComEd's service to the Lemont Facilities?

A. As I indicated, from 1989 to 1991, I was ComEd's account representative for the Lemont Facilities account. At that time the Uno-Ven Company ("Uno-Ven") owned the refinery, calciner, and needle coking operations located on contiguous property at the Lemont Facilities. Beginning in about 1989, Uno-Ven was represented to ComEd to be a partnership owned by PDV America, Inc. and Unocal Corporation.

Q. Beginning in 1989, at what rate was service supplied by ComEd to the Lemont Facilities?

A. Beginning in 1989 Uno-Ven received a combined bill from ComEd for each of these separate operations on Rate 6L – Large General Service ("Rate 6L"). Rate 6L is ComEd's applicable rate for industrial customers with 30-minute demands of 1,000 kW and above during the Demand Peak Period, (i.e. 9:00 a.m. through 6:00 p.m. Monday through Friday, except on certain days designated as holidays).

Q. Please describe ComEd's Rate 6L service to the Lemont Facilities.

A. The Lemont Facilities were served under the provisions of Rate 6L, and billed for demand and energy usage as though all the usage from each service location was combined into one point of service. Rate 6L - Large General Service, is ComEd's general service rate that is applicable to any non-residential customer which has, or is reasonably

92 expected to have, a maximum 30-minute demand of 1,000 kilowatts or more established
93 during the Demand Peak Period.

94 The Maximum Demand is measured at two or more metering points by adding
95 together the separate demands in each 30-minute period and taking the average of the
96 three highest such demands that occurred during the Demand Peak Period during the
97 billing month of which not more than one such demand may be selected from any one
98 day. The kilowatt-hours supplied at two or more meter points are measured by adding
99 together the kilowatt-hours metered at each point for the approximate time periods to
100 determine the usage during the billing month for the Energy Peak Period (9:00 a.m.
101 through 10:00 p.m. Monday through Friday, except on certain days designated as
102 holidays) and Energy Off-Peak Period (all other times that are not in the Energy Peak
103 Period). The Maximum Demand, Energy Peak Period and Energy Off-Peak Period
104 usages are then used for determining the monthly charges by multiplying these values by
105 the corresponding Demand and Energy Charges.

106 In the case of Rate 6L the Demand Charge varies by the summer/non-summer
107 period and is designed as a two-step declining block charge. That is, the Demand Charge
108 is split into two blocks, consisting of one charge that is applicable to the first block of
109 10,000 kW of Maximum Demand and another lower charge that is applicable to a second
110 block of all Maximum Demand over 10,000 kW. The Demand Charge for amounts over
111 10,000 kW is less than half of the charge for the first block Demand Charge, that is for
112 amounts less than 10,000 kW.

113 Q. Did Uno-Ven receive any advantage as a result of ComEd's combined billing of each
114 service location?

115 A. Yes. Combining the usage of the refinery, needle coking and calciner operations on one
116 ComEd general service account allowed Uno-Ven to purchase a large portion of its demand
117 requirements (that portion over the first 10,000 kW each month) for these separate
118 operations at the second block Demand Charge. Uno-Ven's demand and energy usages
119 from the various points of service were combined, thus avoiding the higher first block
120 Demand Charge under Rate 6L. ComEd also combined the energy usage at the various
121 points of service to determine the appropriate peak and off-peak Energy Charges.

122 Q. Was Uno-Ven eligible to receive service as though all the usage from each service
123 location was combined into one point of service?

124 A. At that time, yes. Lawrence Alongi's direct testimony, submitted in this proceeding,
125 explains combined billing in detail and includes a discussion of the application of
126 ComEd's Rate Memorandum, General No. 5 to the Lemont Facilities. I am familiar
127 with those provisions as well. In summary, because the various operations were
128 commonly owned by the Uno-Ven partnership and were located on contiguous property,
129 it was appropriate for the entire Lemont Facilities to be combined billed on Rate 6L –
130 Large General Service. Unocal's partnership with PDV America, Inc. in the refinery, the
131 calciner and needle coker plants, as well as the contiguous location of these premises,
132 allowed the facilities to be combined billed on Rate 6L under the provisions of Rate
133 Memorandum General No. 5.

134 The Rate CS Contract

135 Q. After the formation of the Uno-Ven partnership owning all of the contiguous facilities,
136 did the electric service arrangements for the facilities change?

137 A. Yes. Beginning in 1997 ComEd negotiated a Rate CS contract with PDV Midwest. The
138 circumstances surrounding PDV Midwest's replacement of Uno-Ven as ComEd's
139 customer of record for the Lemont Facilities is discussed in detail in the testimony of
140 ComEd witness Robert J. Preuss.

141 Q. Are you familiar with ComEd's Rate CS Contract with PDV Midwest?

142 A. Yes. The Rate CS Contract is one of the contracts that I am familiar with in connection
143 with my work as ComEd's Manager of Retail Services and as its Rate and Contract
144 Administration Manager. In particular, I worked with a team of individuals to negotiate
145 directly with PDV Midwest the terms and conditions of the Rate CS Contract. These
146 negotiations took place over a period of sixteen months and resulted in the completion of
147 the Rate CS Contract in August of 1997.

148 Q. Please describe the Rate CS Contract.

149 The Rate CS Contract with PDV Midwest

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A copy of the Contract is attached to this testimony as Exhibit 1.1.

168 Q. Please describe the circumstances surrounding the negotiation of the Rate CS Contract.

169 A. ComEd entered into the Rate CS Contract with PDV Midwest on August 5, 1997, and the
170 Contract was subsequently filed with the Commission for review on August 7, 1997,
171 together with the supporting work papers, as required by Rate CS. The Contract was the
172 product of nearly 16 months of negotiations between ComEd on the one part and Uno-
173 Ven, PDV Midwest and CITGO on the other.

174 Q. Did you participate on behalf of ComEd in negotiating the Rate CS Contract?

175 A. Yes. I managed the process for negotiating the Rate CS Contract on behalf of ComEd. I
176 worked with a ComEd team that included Helmut Bonigut – Segment Manager, Robert
177 Preuss – ComEd's Uno-Ven Account Manager, Mike Feerick – Contract Manager, and
178 Bob Olson - Senior Technical Service Engineer. Mike Feerick and I managed the pricing

179 model developed to help determine the project economics and Bob Olson managed the
180 technical evaluations of the cogeneration proposal. Robert Preuss and Helmut Bonigut
181 had responsibility for the account relationship, negotiation schedule and meeting
182 arrangements.

183 Q. With whom did you negotiate?

184 A. Individuals representing Uno-Ven included John Bassett – General Manager, Strategic
185 Planning & Business Development, Gary Ephraim – Manager, Cogen/Venture Project,
186 Stuart Senescu – counsel for Uno-Ven, Wayne Pritzel - Technical Auditing &
187 Economics, Narendra Malhotra – Electrical Distribution and Reliability Engineer, Bill
188 Liegois – Stanley Consulting, and Larry Schedin – consultant with Schedin & Associates.
189 ComEd later resumed negotiations primarily with Gary Ephraim to discuss the RFP and
190 the replies received from various cogeneration developers.

191 Q. Why did ComEd enter into a Rate CS contract with PDV Midwest with respect to the
192 electric load for all of the Lemont Facilities?

193 A. Because ComEd relied upon PDV Midwest's representations that it was the replacement
194 for Uno-Ven, and that it was the proper customer for service for all of the operations at
195 the Lemont Facilities. In addition, during the many months of negotiation, no one told
196 me that any other customer would use electric energy provided under the contract.
197 ComEd therefore signed the Rate CS contract for all of the electric load at the Lemont
198 Facilities with PDV Midwest.

199 Q. If ComEd had been aware that PDV Midwest did not own the Needle Coker and Chicago
200 Carbon facilities, what would ComEd have done?

A. As a matter of proper rate application, the Lemont Facilities would not have been eligible for combined billing. ComEd would have required installation of metering equipment so that service to Needle Coker and Chicago Carbon could be established under Rate 6L. Needle Coker and Chicago Carbon would have been established as separate customers under Rate 6L. The reduced pricing of the Rate CS Contract would not have been available to the Needle Coker and Chicago Carbon operations.

ComEd Discovers the Resale of Electricity

Q. When did ComEd discover that PDV Midwest and CITGO were reselling electricity?

A. ComEd was alerted to the possibility of the resale of electricity at the Lemont Facilities by a request received in 2001 from CITGO's counsel, Eimer Stahl Klevorn & Solberg ("Eimer Stahl"); that ComEd authorize the release of the Rate CS Contract to Needle Coker and Chicago Carbon. As I previously explained, one condition of the Rate CS Contract was an acknowledgment by the parties that the terms and conditions of service under the contract constituted the confidential and proprietary business information of ComEd. The letter from CITGO's counsel indicated that Needle Coker and Chicago Carbon had filed an action in Cook County Circuit Court against PDV Midwest and CITGO alleging that CITGO was overcharging Needle Coker and Chicago Carbon for electricity.

Q. Did ComEd take any action in response to the allegations of resale?

A. Yes. The allegations of resale were a surprise to ComEd, since to the Company's knowledge all of the Lemont Facilities were commonly owned on contiguous property, and properly combined billed. The allegation that CITGO had resold electricity to Needle Coker and Chicago Carbon at a substantial mark-up and profit, and that Needle

Coker and Chicago Carbon were not commonly owned with the rest of the Lemont Facilities caused ComEd to consider that improper resale could be occurring. ComEd investigated the resale allegations by, among other things, reviewing publicly available information about the complaint filed by Needle Coker and Chicago Carbon in Cook County Circuit Court.

Q. What did ComEd's review of this Circuit Court information reveal?

A. ComEd discovered that according to CITGO's own internal documents, CITGO was purchasing electricity under the provisions of ComEd's Rate CS Contract and reselling a portion of that electricity to Needle Coker and Chicago Carbon at Rate 6L charges. The information also revealed that the reorganization of Uno-Ven eliminated its common ownership of the operations subject to the combined bill. In addition, Needle Coker and Chicago Carbon accused CITGO of unlawfully reselling electricity at a profit and that PDV Midwest had an obligation to resell electricity to them at the same Rate CS price that PDV Midwest paid to ComEd.

CITGO And Unocal Documents Concerning Resale Of Electricity

Q. What did discovery in this Commission proceeding show concerning resale of electricity?

A. Documents produced in discovery by Respondents show that CITGO engaged in a coordinated effort to resell for a profit electricity purchased at a reduced price from ComEd.

Even before finalizing its Rate CS contract with ComEd, CITGO began to conceal from ComEd, Needle Coker and Chicago Carbon that it intended to bill Needle Coker and Chicago Carbon at the higher Rate 6L rate that had applied to the Lemont Facilities prior to the approval of the Rate CS contract.

247 For example, nearly a month before ComEd filed the Rate CS contract with the
248 Illinois Commerce Commission, CITGO employees

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252 attached to my testimony as Exhibit 1.2

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280 On August 6, 1997, with the ComEd rate reduction implementation looming, Ms.

281 Rupa Natarajan

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283 is attached as Exhibit 1.3 to my testimony

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300 CITGO has not produced Mr. Nedeau's response, but subsequent documents

301 establish that CITGO

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307 attached as Exhibit 1.4

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315 is attached as Exhibit 1.5 to my testimony.

316 The documents show that Unocal continued to
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332 A copy of Mr. Ephraim's e-mail, PC03585-003586, is attached to my testimony as
333 Exhibit 1.6.

334 Q. Did CITGO's documents demonstrate resale of Rate CS electricity to Chicago Carbon
335 and Needle Coker, and any profits from the resale?

336 A. Yes. CITGO also produced copies of documents that
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attached as Exhibit 1.7

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Q. Did Needle Coker and Chicago Carbon produce any documents in discovery demonstrating that resale of electricity, at a profit, had occurred?

A. Yes.

is attached as Exhibit 1.8.

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381 Q. Did the resale of electricity stop in January 2000?

382 A. No, it did not. For example, a September 22, 2000 e-mail from Glenn Rabinak to Joseph

383 Noreiko and Ann Lowry, all CITGO employees, states:

384 We receive electricity bills from ComEd and the bill covers
385 electricity used by the Refinery, Needle, and Chicago Carbon. We
386 then resell a portion of this electricity at a higher rate to Needle
387 and Chicago Carbon. This creates a profit on the resale.

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389 Mr. Rabinak then states that he has been advised to eliminate this profit amount
390 from the 2001 CITGO budget. Mr. Rabinak concludes, however, that "I am not ready yet
391 to do that until I understand this situation." A copy of Mr. Rabinak's e-mail, PCES
392 000445, is attached as Exhibit 1.9.

393 Resale Of Electricity Is Prohibited

394 Q. Are there any rates or regulatory requirements that directly address the resale of
395 electricity?

396 A. Yes. ComEd's Rider 12 – Conditions of Resale or Redistribution of Electricity by the
397 Customer to Third Persons ("Rider 12") permits, under limited circumstances not
398 applicable to the Rate CS Contract, the resale of electricity. Resale, as noted in Rider 12,
399 is the furnishing of electricity by a customer to a third person or persons where (a) the
400 electricity is separately charged for in whole or in part, or (b) it is metered or its use is
401 limited in any way. Rider 12 prohibits resale of electric service except under very limited
402 circumstances of certain grand fathered buildings for which resale was permitted under
403 practices that were in effect prior to January 2, 1957.

404 Q. Was CITGO authorized to resell electricity provided by ComEd under the Rate CS
405 Contract?

406 A. No. CITGO did not meet the criteria established in Rider 12 to resell electricity. When
407 common ownership of the refinery ended the combined billing of these operations also
408 should have ended. Needle Coker and Chicago Carbon should have been set up as new
409 customers under ComEd's Rate 6L tariff and received electricity from ComEd, not
410 CITGO. Rider 12 prohibits the resale of electricity supplied by ComEd unless the resale
411 is grandfathered (i.e. existed prior to January 2, 1957). The Lemont Facilities are not
412 covered by the grandfathering clause of Rider 12 thus prohibiting the resale of electricity
413 to Needle Coker and Chicago Carbon. Even more fundamentally, CITGO is not a public
414 utility or an Alternative Retail Electric Supplier within the meaning of the Illinois Public
415 Utilities Act, and is therefore not entitled to provide electric service to a retail customer
416 or customers such as Needle Coker and Chicago Carbon.

417 Q. What is the significance of ComEd's discovery of the Uno-Ven reorganization?

418 A. ComEd's discovery of the true facts of the reorganization, which led to filing of this
419 proceeding, presents the opportunity to present correct bills and establish proper electric
420 service to the Lemont Facilities.

421 Had these facts been properly represented to ComEd in 1997, ComEd would not
422 have agreed to the incorrect combined billing and the extension of the Rate CS Contract
423 to all of the electric load for the Lemont Facilities. But for the resale, ComEd would
424 have provided regulated electric utility service to Chicago Carbon and Needle Coker as
425 separate customers at the applicable Rate 6L price. Chicago Carbon and Needle Coker
426 would not have received resold Rate CS electricity from CITGO, and CITGO would not
427 have been able to charge and retain an approximately \$6.49 million mark-up on power
428 sold to the Unocal companies. ComEd's computation of this amount is reflected in
429 testimony of Lynn Miller.

430 Q. How did the Lemont Facilities' retaining combined billing during the period of the Rate
431 CS Contract facilitate the resale?

432 A. Retaining the combined billing and inclusion of all of the Lemont Facilities electric load
433 under the Rate CS Contract denied ComEd the ability to correctly apply its tariffs to
434 Chicago Carbon and Needle Coker under the provisions of Rate 6L. It also permitted
435 CITGO and PDV Midwest to obtain more electricity under the Rate CS contract than was
436 needed to provide service to the refinery. Chicago Carbon and Needle Coker would not
437 have received billing under the lower price provisions of the Rate CS Contract and would
438 have been established as separate Rate 6L customers. ComEd would have received an
439 additional \$6.49 million in revenue from these customers.

440 Q. Please describe ComEd's efforts to resolve the resale issue with CITGO, Needle Coker
441 and Chicago Carbon prior to filing this Commission proceeding.

442 A. As discussed in greater detail by Robert Preuss, ComEd approached CITGO, Needle
443 Coker and Chicago Carbon with this issue after the Company discovered the resale and
444 requested that CITGO stop reselling electricity, and that Needle Coker and Chicago
445 Carbon take actions necessary to receive electric service under their own accounts.
446 Initially, Unocal on behalf of Needle Coker and Chicago Carbon agreed to cooperate in
447 setting up the Needle Coker and Chicago Carbon facilities up as separate service
448 accounts. Unocal later refused ComEd's request upon learning of the requirements for
449 installing equipment needed to accommodate ComEd's electric meters, in the same
450 manner as other similarly situated ComEd customers. ComEd also asked PDV Midwest
451 and CITGO for data quantifying the amount of electricity sold to Needle Coker and
452 Chicago Carbon, to complete the data obtained from the public court file concerning the
453 resale. PDV Midwest and CITGO refused to provide the data. ComEd also indicated to
454 PDV Midwest and CITGO on more than one occasion the amount of money, based upon
455 available CITGO information, that ComEd would need to receive from CITGO in order
456 to be paid the correct Rate 6L amount for quantities of electricity in excess of the Rate
457 CS quantity used by the refinery. CITGO refused to provide needed data to rebill CITGO
458 correctly, and to pay the Rate 6L price for the Rate CS electricity that it had resold.

459 Q. Is it possible for ComEd to serve Needle and Chicago Carbon as separate customers?

460 A. Yes. ComEd can serve Needle Coker and Chicago Carbon through a metering
461 arrangement like that used for other electrically similarly situated customers, which have
462 been described in detail to Needle Coker and Chicago Carbon. ComEd's witness Robert

463 Preuss describes the needed metering installation in detail, and attaches photographs of
464 exemplar equipment as exhibits to his testimony. The correct billing quantities from this
465 installation can then be used to bill each customer under the applicable tariff or other
466 service arrangement chosen by each customer.

467 Q. Have Needle Coker and Chicago Carbon obtained any utility service at less than the
468 Illinois Commerce Commission-approved rate for such service?

469 A. Yes. After ComEd filed its petition in this proceeding, PDV Midwest, Needle Coker and
470 Chicago Carbon entered into a settlement agreement with respect to the Circuit Court
471 electric resale litigation. The settlement agreement was subject to a motion to compel,
472 and was ultimately produced to ComEd. Under a confidentiality agreement among the
473 parties, counsel for Needle Coker and Chicago Carbon have taken the position that the
474 settlement agreement may not be reviewed by me, which position I understand ComEd
475 may challenge.

476 While I have not reviewed the settlement agreement because counsel for Needle
477 Coker and Chicago Carbon at the date of this testimony have refused permission for me
478 to do so, I have been asked to assume hypothetically that in consideration of dismissal of
479 claims that CITGO or PDV Midwest had overcharged Needle Coker and Chicago Carbon
480 for electricity pursuant to the resale, CITGO or PDV Midwest agreed to pay Chicago
481 Carbon and Needle Coker a sum of money. If this were the case, such a payment
482 essentially rebates to Needle Coker and Chicago Carbon a portion of the resale profits
483 obtained by PDV Midwest and CITGO through their improper resale. Through receiving
484 such a payment, Chicago Carbon and Unocal would have received some of the benefits
485 of the Rate CS contract discounts to which they were not otherwise entitled, since these

486 customers should have been served on Rate 6L. ComEd reserves its right to supplement
487 this portion of my testimony upon further determination concerning ComEd's position
488 that the referenced payments and settlement agreement are relevant, material and
489 admissible.

490 In addition, simply by having been combined billed with the PDV Midwest
491 refinery during the Rate CS period, Needle Coker and Chicago Carbon even before
492 receiving the settlement payment had also improperly received lower cost demand
493 charges than they were otherwise entitled to, because their electric loads would not have
494 qualified them for the lower demand charges provided in ComEd's Rate 6L for customer
495 load exceeding 10 MW. No other electrically similarly situated customers received such
496 lower demand charges, which is unfair and discriminatory compared with such other
497 customers.

498 Rate RCDS/Rider PPO-MI Contract

499 Q. Does ComEd currently provide Rate CS service to the Lemont Facilities?

500 A. No. The Rate CS contract with PDV Midwest ended on August 26, 2002. CITGO
501 elected at that time to contract with ComEd for service under the provisions of Rate
502 RCDS- Retail Customer Delivery Service ("Rate RCDS") and Rider PPO-MI – Power
503 Purchase Option (Market Index) ("Rider PPO"). The current contract provides for
504 ComEd to deliver power purchased under Rider PPO to the plant under the provisions of
505 Rate RCDS. Customers taking service on Rate RCDS are also subject to paying transition
506 charges on Rate CTC – Customer Transition Charge ("Rate CTC").

507 Q. PDV Midwest and CITGO assert in their Joint Answer to ComEd's Amended Petition in
508 this matter that "ComEd entered into an agreement pursuant to which ComEd will
509 continue to provision electric service to the refinery and needle coking plant as a single
510 retail customer, on a single account and via a combined bill." Is this correct?

511 A. No. ComEd did enter into a contract under Rate RCDS/Rider PPO, but did not agree to
512 provide service to the refinery, calciner plant and the needle coking plant as a single retail
513 customer. Prior to the expiration of the CITGO Rate CS contract ComEd requested
514 installation of approved metering facilities so that service to the refinery, calciner plant
515 and Needle Coker plant could each be billed separately. After CITGO, Needle Coker and
516 Chicago Carbon failed to comply with this request ComEd filed its petition at the
517 Commission to resolve this and other issues. In the meantime, CITGO's Rate CS
518 Contract expired and ComEd entered into a Rate RCDS/Rider PPO agreement so as to
519 continue service to the customers without interruption pending decision of ComEd's
520 petition at the Commission. ComEd continues to assert that proper metering equipment
521 should be installed so that each customer can be correctly billed under its own general
522 service account and selected rate.

523 Q. What is the impact on ComEd of continuing to combine bill the Lemont Facilities
524 operations under the Rate RCDS/Rider PPO agreement?

525 A. CITGO and PDV Midwest continue to provide electric service to retail customers Needle
526 Coker and Chicago Carbon, without the supervision of the Illinois Commerce
527 Commission, application of correct rates, or an ability for those retail customers to make
528 an independent choice concerning electric service. To ComEd's knowledge, this is the
529 only such instance of unregulated resold electric service occurring on its electric system,

530 which ComEd seeks to correct through this proceeding. In addition, so long as
531 Respondents refuse to cooperate in installing the proper metering facilities, ComEd will
532 continue to receive less revenue than appropriate under its applicable rates due to the
533 Needle Coker and Chicago Carbon facilities being less than 10 MW customers.
534 Moreover, so long as Respondents refuse to cooperate in installing the proper metering
535 facilities, Needle Coker and Chicago Carbon will continue to pay an unreasonably
536 discriminatory rate, paying a lesser amount for utility service than other similarly
537 electrically situated customers would under ComEd's rates. Needle Coker and Chicago
538 Carbon's continued receipt of utility service at less than proper rates is unfair to other
539 customers, and should be discontinued.

540 Q. Does this complete your direct testimony?

541 A. Yes.